

ENFORCEMENT GUIDELINES

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PREFACE

The Texas Natural Resource Conservation Commission's Enforcement Division, Water Quality Enforcement Guideline is a reference document that provides information describing the procedures used by the Commission in protecting the public health and improving water quality in the State. The water quality regulatory program is an integral part of the Texas Natural Resource Conservation Commission's overall pollution control effort.

The guideline is intended to be utilized as a reference tool to assist in the development and understanding of the enforcement process. The guideline discusses in detail the procedures and methods currently employed in the regulation of wastewater treatment facilities, plant operators, sludge transporters and beneficial use sites.

INTRODUCTION

The Texas water quality program began as a branch of the Texas Department of Health in the late 1950's. The 1967 Water Quality Act established the Water Quality Board, which made major strides in eliminating pollution. In 1977, the Texas Water Quality Board was merged with two other water agencies to become the Texas Department of Water Resources.

On September 1, 1985, the Texas Water Commission assumed primary responsibility for protecting the state's water resources through implementation of Senate Bill 249 adopted by the 69th Texas Legislature. The Texas Water Commission's primary goal was the protection of the Texas environment in an effective and efficient manner. On March 1, 1992, as part of state consolidation efforts, the Texas Water Commission acquired jurisdiction over the municipal solid waste, drinking water hygiene, on-site sewage facilities, and sludge programs from the Texas Department of Health. Acquisition of the Water Well Drillers Board and the Board of Irrigators occurred in September 1992. The final stage of consolidation occurred on September 1, 1993, with the merger of the Texas Air Control Board and the Texas Water Commission to form the Texas Natural Resource Conservation Commission ("Commission").

A wide range of responsibilities fall within the Commission's jurisdiction. These responsibilities include: water quality monitoring and management; wastewater treatment plant operator certification; surface water rights administration; dam safety management; water well driller regulation; National Flood Insurance Program and flood control improvement project administration; petroleum storage

tank regulation; injection well program administration; municipal and industrial solid waste management; hazardous waste management; air quality; waste minimization initiatives; oil and hazardous material spill response coordination; abandoned waste site cleanup; water district supervision; water rate setting of certain privately-owned public water/wastewater systems; and public drinking water supply regulations.

In addition, the Commission initiated an ambitious statewide environmental partnership program entitled, *Clean Texas 2000*, aimed at reducing pollution and involving every Texan in taking care of the state's environment. *Clean Texas 2000* involves Texas businesses, local governments, communities, organizations, and citizens in a unified effort to voluntarily reduce and prevent pollution. This program is designed to facilitate environmental protection throughout the state in a manner that exceeds federal and state requirements.

The Commission's enforcement components are located in both the Central Office and the Regional Offices. The Field Operations Division (FOD) coordinates activity across the State through Regional Offices. Surveillance activities are conducted by inspectors located in those offices. They are responsible for conducting site visits for compliance inspections and complaint investigations. Most violations noted during inspections are resolved through informal enforcement efforts at the Regional Office level. However, under certain conditions, a Regional Office may refer an entity for appropriate formal enforcement action as a result of significantly noncompliant or other serious and/or continuing violations at a facility.

The enforcement program is coordinated between Enforcement Team I (the Water Quality Team) and the Database and Administration Team of the Water & Multimedia Section in the Enforcement Division, the Pretreatment Team in the Water Quality Division, the Sludge and Transporter Review Team of the Water Quality Division, the Toxicity Evaluation Team of the Water Quality Division, the Litigation Support Division, and the Regional Offices. Water Quality Team staff provide the administrative and technical actions necessary to identify alleged violations of the Texas Water Code, the Texas Health and Safety Code and Title 30 Texas Administrative Code (TAC).

The Water Quality Team also reviews compliance inspection reports submitted by the Regional Offices for facilities under Central Office enforcement action and monitors permittee progress in meeting compliance deadlines as required by Administrative Order (AOs). An AO cannot be terminated until the alleged violator is compliant with the terms and requirements of the AO, or 5 years from the effective date of the order, whichever date is later.

Regional Offices provide technical support for formal enforcement cases. Field staff conduct inspections to develop enforcement documentation, provide recommendations for corrective action requirements, participate in screening Regional Office referrals for the initiation of formal enforcement and review draft enforcement documents.

The Database and Administration Team of the Enforcement Division will update and maintain all Water Enforcement National Database (WENDB) data elements in the Permit Compliance System (PCS) and the Commission's Texas Regulatory Activity and Compliance System (TRACS) database which contains information about all permitted effluent limitation requirements, biomonitoring for

Whole Effluent Toxicity (WET) limits, pretreatment requirements, storm water requirements, and sewage sludge requirements for permits issued by the Commission. The Database and Administration Team is responsible for implementing Quality Assurance/Quality Control procedures for entering and monitoring reliable and consistent data in PCS.

The Database and Administration Team also supplies Discharge Monitoring Report (DMR, EPA Form 3320-1) forms with current permitted effluent limitations to all permittees. The team receives, reviews and tracks monthly self-reported data (DMRs) received from permitted facilities throughout the State. The Database and Administration Team receives and initially reviews the data utilizing the Violation Review Action Criteria (VRAC) located in the Enforcement Guidelines (Appendix 6-A, Part III). If the facility exceeds VRAC for administrative requirements (such as failure to self-report), the Database and Administration Team has the authority to take informal enforcement action which includes warning letters and verbal contact. The Database and Administration Team staff will take the appropriate action to address the noncompliance within thirty (30) days of becoming aware of the violation. If the alleged violator does not respond, if the response is not adequate, or if the noncompliance is non-administrative in nature, the facility is referred to the Water Quality Team Leader for assignment and enforcement review by Water Quality Team staff.

**TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION**

**ENFORCEMENT GUIDELINES
WATER QUALITY PROGRAM**

APPENDIX 6-A

PART I
INTRODUCTION

